

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
DONALD C. HUTCHINS )  
Plaintiff )  
vi. ) Civil Action: **04-30126-MAP**  
CARDIAC SCIENCE, INC., et al., )  
Defendants )  
\_\_\_\_\_

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR LEAVE TO  
FILE INSTANTER REPLY BRIEF IN SUPPORT OF HIS ANSWER TO  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

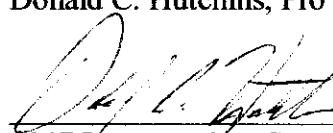
In its Motion for Summary Judgment the Defendant, Compliant Corporation ("Compliant") relies on Ohio Case No. CV04540066 that it cites in Exhibits G and H of its Memorandum. Case No. CV04540066 is now under appeal before the Eighth District Court of Appeals, Cuyahoga County Ohio. This Case can not be used in terms of *res judicata* while in the process of appeal.

Respectfully submitted,

The Plaintiff

Donald C. Hutchins, Pro Se

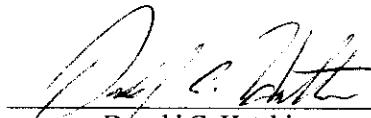
Dated: 3/2/06

  
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1047 Longmeadow Street  
Longmeadow, Massachusetts 01106  
(413) 567-0606

CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate parties by sending a copy by United States mail to: Randall T. Skaar, Esq. Patterson, Thuente, Skaar & Christensen, P.A., 4800 IDS Center, 80 South 8<sup>th</sup> St. Minneapolis, Minnesota; 55402, Paul H. Rothschild, Esq. Bacon & Wilson, P.C., 33 State St., Springfield, MA 01103; John J. Egan Esq., Egan, Flanagan and Cohen, P.C., 67 Market St., Springfield, MA 01102-9035, Colleen O'Neil, Esq., Calfee, Halter & Griswold LLP, 800 Superior Ave., Cleveland, Ohio 44114-2688.

Dated: 3/2/06

  
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Donald C. Hutchins